

Notice of Allowability

Application No.

09/869,677

Examiner

Jennifer E. Graser

Applicant(s)

BJORCK ET AL.

Art Unit

1645

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to 6/28/04.
2. ☒ The allowed claim(s) is/are 1-3, 10 and 13-22.
3. ☒ The drawings filed on 6/29/01 & 6/28/04 are accepted by the Examiner.
4. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☒ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☒ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

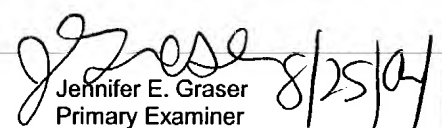
Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date _____
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____


Jennifer E. Graser
Primary Examiner
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EXAMINER'S COMMENT/REASONS FOR ALLOWANCE

1. Claims 1-3, 10, and 13-22 are allowed.
2. The following is an examiner's statement of reasons for allowance:

The prior art does not teach or suggest the claimed proteins or methods.

The originally filed claims were amended to recite "SEQ ID NO:2" instead of "SEQ ID NO:1". The instant specification at page 4, lines 25-27, specifically states that SEQ ID NO:1 sets out the amino acid sequence for the full length MtsA polypeptide of *S.pyogenes* and the nucleotide sequence encoding this protein. The specification, in the following line, states that SEQ ID NO:2 also sets out the amino acid sequence for full length MtsA of *S.pyogenes*. SEQ ID NO:1 in the originally filed paper sequence listing shows the DNA sequence of MtsA and the MtsA amino acid sequence which it encodes. The amino acid sequences in the originally filed sequence paper listing which are listed as SEQ ID NO:1 and 2 are identical. The electronic submission rules in this National Stage application required the DNA sequence and the amino acid sequence to have their own separate sequence identifier numbers. Accordingly, in the CRF, SEQ ID NO:1 represents the DNA sequence and SEQ ID NO:2 represents the amino acid sequence. Amending the claims to refer to SEQ ID NO:2 is not new matter. Support for fragments of SEQ ID NO:2 which are at least 60 amino acids in length is found on page 7, lines 8-9 (reference to SEQ ID NO:1 is made, but as stated above the same amino acid sequence is identical to that of SEQ ID NO:2). Support for amino acid sequences which are at least 95% identical to SEQ ID NO:2 is found on page 6, lines 18-26, (reference to SEQ ID NO:1 is

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made, but as stated above the same amino acid sequence is identical to that of SEQ ID NO:2).

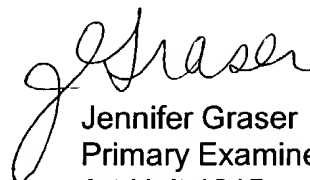
Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

3. Correspondence regarding this application should be directed to Group Art Unit 1645. Papers related to this application may be submitted to Group 1600 by facsimile transmission. Papers should be faxed to Group 1600 via the PTO Fax Center located in Remsen. The faxing of such papers must conform with the notice published in the Official Gazette, 1096 OG 30 (November 15, 1989). The Group 1645 Fax number is (703) 872-9306 which is able to receive transmissions 24 hours/day, 7 days/week.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jennifer E. Graser whose telephone number is (571) 272-0858. The examiner can normally be reached on Monday-Friday from 7:00 AM-4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Lynette Smith, can be reached on (571) 272-0864.

Any inquiry of a general nature or relating to the status of this application should be directed to the Group receptionist whose telephone number is (571) 272-0500.

 8/25/04
Jennifer Graser
Primary Examiner
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